

House Judiciary Committee Amendment # 1

Amendment No. 1 to SB1471

**Person
Signature of Sponsor**

AMEND Senate Bill No. 1471*

House Bill No. 884

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 55-10-403(c), is amended by adding the following as a new subdivision (3) and renumbering the remaining subdivisions accordingly:

(3) Notwithstanding any other provision of law to the contrary, upon conviction of a person pursuant to § 55-10-401, and such person has a prior conviction of § 55-10-401 within the past five (5) years, the court shall order such person to undergo a drug and alcohol assessment and receive treatment as appropriate. Unless the court makes a specific determination that the person is indigent, the expense of such assessment and treatment shall be the responsibility of the person receiving it. If the court finds that the person is indigent, the expense or some portion of the expense may be paid from the alcohol and drug addiction treatment fund established in § 40-33-211(c)(2) pursuant to a plan and procedures developed by the department of health.

SECTION 2. Tennessee Code Annotated, Section 55-10-412(l), is amended by deleting the subsection in its entirety and by substituting instead the following:

(l)

(1) Upon conviction of a person pursuant to § 55-10-401, and such person has a prior conviction of § 55-10-401 within the past five (5) years, the court shall order such person to operate only a motor vehicle or motorcycle, after the license revocation period, which is equipped with a functioning interlock device. The court shall also order such device to be installed on all vehicles

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owned or leased by the person at such person's own expense for a period of six (6) months.

(2) Any person subject to the provisions of subdivision (1) may, solely in the course of his employment, operate a motor vehicle or motorcycle, which is owned or provided by his employer, without installation of an ignition interlock device, if the court expressly permits such operation, and if the employer has been notified of such driving privilege restriction and if proof of that notification is within the vehicle. This subdivision shall not apply if such employer is an entity wholly or partially owned or controlled by the person subject to the provisions of this subsection.

SECTION 3. Tennessee Code Annotated, Section 40-33-211(c), is amended by adding the following new subdivision:

(3) If the general sessions or criminal court judge makes a specific finding that the person is indigent and that it is in the best interest of such person and the public, monies in the "alcohol and drug addiction treatment fund" may be used to pay the reasonable cost of leasing, buying, installing, monitoring and maintaining an ignition interlock device that is ordered pursuant to § 55-10-412(l) for persons who are subject to the provisions of this part. However, such device shall not be utilized in lieu of treatment of such person.

SECTION 4. Tennessee Code Annotated, Section 40-33-211(f), is amended by adding the following new subdivision:

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(3) If the general sessions or criminal court judge makes a specific finding that the person is indigent and that it is in the best interest of the individual and the public, monies in the "alcohol and drug addiction treatment fund" may be used to pay the reasonable cost of leasing, buying, installing, monitoring and maintaining an ignition interlock device that is ordered pursuant to § 55-10-412(l) for persons who are subject to the provisions of this part. However, such device shall not be utilized in lieu of treatment of such person.

SECTION 5. If there are insufficient funds in the department of health's "alcohol and drug addiction treatment fund" to pay for the expenditures obligated by the provisions of this act, the department of transportation shall make funds available in the form of grants from the Governor's Highway Safety Fund. Such grants shall be for the specific purpose of providing drug and alcohol assessments and treatments as ordered by courts pursuant to the provisions of this act. The amount of grant money the department shall make available during each fiscal year shall be based upon the amount of money available in the "alcohol and drug addiction treatment fund" and the commissioner of health's estimate as to the amount of funding that will be required for the fiscal year.

SECTION 6. Tennessee Code Annotated, Sections 55-10-403(d)(1)(A)(ii), 55-10-403(d)(1)(B)(i)(b), 55-10-403(d)(3), and 55-50-502(c)(3)(ii) are amended by deleting the code citations "§ 55-10-401, § 39-13-213(a)(2), § 39-13-218, § 39-13-106, or § 55-10-418" and substituting instead the citations "§ 39-13-213(a)(2), § 39-13-218, or § 39-13-106".

SECTION 7. Tennessee Code Annotated, Section 55-10-403, is amended by adding the following new subpart (4) to subsection (d):

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(4)

(A) Any person whose motor vehicle operator's license has been revoked pursuant to subsection (a) and such person has a prior conviction for a violation of § 55-10-401 or § 55-10-418, in this state or a similar offense in any other jurisdiction, the trial judge may order the issuance of a restricted motor vehicle operator's license in accordance with § 55-50-502. Provided, however, such person shall not be eligible for and the court shall not have the authority to grant the issuance of a restricted motor vehicle operator's license until the expiration of a one (1) year revocation period. Such restricted license may be issued for the same purposes set out in (d)(1)(A) of this subsection.

(B) If the court orders the issuance of a restricted motor vehicle operator's license pursuant to this subpart, the court shall also order such person to operate only a motor vehicle or motorcycle that is equipped with a functioning interlock device. The court shall also order such device to be installed on all vehicles owned or leased by the person at such person's own expense for the entire period of the restricted license and for a period of six (6) months after the license revocation period has expired as required in § 55-10-412(l).

SECTION 8. Tennessee Code Annotated, Section 55-10-401(a)(2), is amended by deleting the language "ten one hundredths of one percent (.10%)" and by substituting instead the language "eight-hundredths of one percent (.08%)".

SECTION 9. Tennessee Code Annotated, Section 55-10-406(f), is amended by deleting the language "or adult driving while impaired under § 55-10-418".

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SECTION 10. Tennessee Code Annotated, Section 55-10-408, is amended by deleting the section in its entirety and by substituting instead the following:

Section 55-10-408. For the purpose of proving a violation of § 55-10-401(a)(1), evidence that there was, at the time alleged, eight-hundredths of one percent (.08%) or more by weight of alcohol in the defendant's blood shall create a presumption that the defendant's ability to drive was sufficiently impaired thereby to constitute a violation of § 55-10-401(a)(1).

SECTION 11. Tennessee Code Annotated, Section 55-10-418, is amended by deleting the section in its entirety and by substituting instead the following:

Section 55-10-418. (a) Effective September 30, 2003, the offense of adult driving while impaired is repealed.

(b) Nothing in the repeal of the offense of adult driving while impaired shall be construed to prohibit or prevent the use of any conviction for such offense occurring prior to September 30, 2003, for any of the purposes set out in Tennessee Code Annotated §§ 55-10-403(d)(1)(A)(ii), 55-10-403(d)(1)(B)(i)(b), 55-10-403(d)(3), 55-10-403(g)(2), 55-10-403(o), 55-10-406(a)(3)(A), 55-10-603(2)(A)(x) and 55-50-502(c)(3)(ii).

SECTION 12. Tennessee Code Annotated, Section 55-10-403, is amended by adding the following language as a new, appropriately designated subsection:

(q)

(1) In addition to all other fines, fees, costs and punishments now prescribed by law, an alcohol and drug addiction treatment fee of one hundred

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dollars (\$100) shall be assessed for each conviction for a violation of § 55-10-401.

(2) All proceeds collected pursuant to subdivision (1) shall be transmitted to the commissioner of the department of health for deposit in the special "alcohol and drug addiction treatment fund" administered by such department.

SECTION 13. Tennessee Code Annotated, Section 55-10-403, is further amended by deleting the fifth sentence of subsection (a)(1) and substituting instead the following:

Upon the conviction of a person on the second offense only, a judge may sentence such person to participate in a court approved alcohol or drug treatment program.

SECTION 14. Tennessee Code Annotated, Section 55-10-403, is further amended by deleting the first sentence of subsection (a)(4)(A) and substituting instead the following:

If the court orders participation in an inpatient alcohol and drug treatment program pursuant to subdivision (a)(1), such treatment program shall not exceed a period of twenty-eight (28) days.

SECTION 15. Tennessee Code Annotated, Section 40-33-211, is amended by adding the following to the end of subsection (c)(2):

The alcohol and drug addiction treatment fund shall be administered pursuant to public necessity rules promulgated by the department of health which shall establish criteria for application of the funds.

SECTION 16. If prior to the effective date of Sections 8-12 of this act, the provisions of the Transportation Equity Act for the 21st Century that require the withholding of funds required

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to be apportioned for Federal-aid highways to this state under each of paragraphs (1), (3), and (4) of Title 23, United States Code, Section 104(b) if this state does not enact and enforce a provision described in section 163(a) of chapter 1 of title 23, United States Code are repealed or otherwise cease to be effective, the provisions of Sections 8-12 of this act shall not take effect and shall be void.

SECTION 17. If prior to the effective date of Sections 8-12 of this act, the time within which the provisions of the Transportation Equity Act for the 21st Century that require the withholding of funds required to be apportioned for Federal-aid highways to this state under each of paragraphs (1), (3), and (4) of Title 23, United States Code, Section 104(b) if this state does not enact and enforce a provision described in section 163(a) of chapter 1 of title 23, United States Code is extended to a date beyond the beginning of fiscal year 2004, then the effective date of Sections 8-12 this act shall be extended until the same such date.

SECTION 18. Sections 1-7 of this act shall take effect October 1, 2001, the public welfare requiring it, and shall apply to all applicable violations of the provisions of Tennessee Code Annotated, Section 55-10-401 occurring on or after such date. If the provisions of SECTION 16 or SECTION 17 of this act do not become operative, Sections 8-12 of this act shall take effect on September 30, 2003, the public welfare requiring it. Sections 13, 14 and 15 of this act shall take effect upon becoming a law, the public welfare requiring it.